

REMARKS

Claims 1-12, 14-18, 33-46, 48, and 50-53 are pending in the application. Claims 50-53 are withdrawn and claims 13, 19-32, 47 and 49 are canceled. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein. No new matter has been added.

SPECIFICATION

The abstract of the disclosure is objected to because it contains more than the allotted word limit. The abstract of the disclosure has been replaced with a new abstract containing less than 150 words. Applicant respectfully requests the Examiner to withdraw this objection.

REJECTION UNDER 35 U.S.C. § 112

Claim 48 is rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended claim 48 with the recitations of claim 49 to define the group of materials.

In view of the above, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claim 48.

REJECTION UNDER 35 U.S.C. § 102

Claims 1, 2, 4-6, 8, 9, 11-16, 33-36, 38-40, 42-43, 45-46, and 48-49 stand rejected under 35 U.S.C. §102(b) as being anticipated by Smith et. al. (U.S. Patent No. 5,092,893). This rejection is respectfully traversed.

Applicant notes that claim 1 includes, in relevant part, the following recitations: “the artificial left and right facet joint structures each being configured to articulate with another spinal prosthesis assembly or with a natural articular process of an adjoining pedicle.”

There is nothing in the disclosure of Smith that teaches artificial left and right facet joint structures each being configured to articulate with another spinal prosthesis assembly or with a natural articular process of an adjoining pedicle. Smith discloses a vertebra structural implant for rigidly connecting vertebral bodies in axial and lateral directions in the spinal column. See col. 2, lines 5-12. The components of the Smith implant are implant plates 13, 14, threaded studs 15, locking washers 30, lock nuts 35, and a cross brace 40. See col. 3, line 15- col.4, line 16. These components are installed to rigidly stabilize vertebral bodies in axial and lateral directions in the spinal column. Specifically, these components are designed to create a fixed, rigid construct to support the bones until the bones can fuse and/or otherwise heal. This is unlike the invention of claim 1 which includes artificial left and right facet joint structures each being configured to articulate with another spinal prosthesis assembly or with a natural articular process of an adjoining pedicle. The invention of claim 1 is designed to allow articulation after installation.

In the Office Action, it was suggested that the curved bearing surfaces 16a, 17a are there to allow joints to articulate. This is incorrect as Smith in col. 4, lines 19-47 discloses that the curved bearing surfaces are provided as means to compensate for angular misalignment between the attachment studs and the implant plate to alleviate bending stresses on the attachment studs. The curved surfaces are not provided to allow joints to articulate and they do not allow joints to articulate.

In view of the above remarks, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claim 1. Since claims 2, 4-6, 8, 9, 11-16, 33-36, 38-40, 42-43, 45-46, and 48-49 depend from claim 1, for the same reasons applicable to claim 1, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 2, 4-6, 8, 9, 11-16, 33-36, 38-40, 42-43, 45-46, and 48-49.

REJECTION UNDER 35 U.S.C. § 103

Claims 3, 7, 10, 17, 18, 37, 41, 44, 48 and 49 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith. This rejection is respectfully traversed.

For the reasons mentioned above with respect to claim 1, it is submitted that claims 3, 7, 10, 17, 18, 37, 41, 44, 48 and 49, which depends from claim 1, also recites patentable subject matter.

In view of the above remarks, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of claims 3, 7, 10, 17, 18, 37, 41, 44, 48 and 49.

CONCLUSION

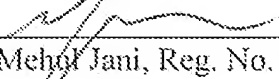
It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will

expedite prosecution of this application, the Examiner is invited to telephone the undersigned attorney at (610) 930-1800 x1174.

No additional fees are believed due for this submission, however, if any additional fees are required; please charge such fees to GMEDELAWARE 2 LLC Deposit Account No. 50-4131.

Respectfully submitted,

Dated: February 25, 2011

By: 
Mehul Jani, Reg. No. 51,380

GMEDELAWARE 2 LLC
Valley Forge Business Center
2560 General Armistead Avenue
Audubon, PA 19403
(610) 930-1800